



North Delta CARES Action Committee

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June 21, 2017

Delta Stewardship Council
980 9th Street, Suite 1500
Sacramento, California 95814
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Re: Delta Plan Amendment for Water Conveyance, System Storage, and the Operation of Both

Dear Delta Stewardship Council Members:

On behalf of North Delta Community Area Residents for Environmental Stability (C.A.R.E.S.), we would like to thank you for this opportunity to comment prior to the pending vote, to share our perception of how the proposed Delta Plan Amendment would affect Delta as Place.

We are concerned that the proposed Delta Plan Amendment for Water Conveyance, System Storage, and the Operation of Both (Amendment) is not in alignment with the duty of the Delta Stewardship Council (DSC) to conform to the regulations stated in the 2009 Delta Reform Act. We believe the current April 19, 2017 revised version of the Delta Plan Amendment, as proposed by DSC Staff and under consideration by DSC Council Members, is deeply flawed and adoption of the Amendment would result in actions contrary to the Delta Stewardship Council's obligation to comply with Water Code Section 85304.

Water Code Section 85304 specifically delineates that any and all action taken to meet the Co-Equal Goals of water reliability and Delta ecosystem restoration **"shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."** (Emphasis added.)

The proposed Amendment is unacceptable because the language of Dual Conveyance points directly back to the BDCP/California Water Fix Projects Alternative 9 and Alternative 4/4A. (Note: Per RDEIR/SDEIS ES-3 "Alternative 4A is also known as "The California WaterFix." It is now DWR's preferred alternative under the California

Environmental Quality Act (CEQA) and Reclamation's preferred alternative under the National Environmental Policy Act (NEPA).")

Construction of any or parts of any of the BDCP/California Water Fix Alternatives (e.g. Delta Tunnels), would cause major devastation and destruction to the Primary Zone of the Legal Delta, and therefore would be inconsistent with the Water Code Section 85304 mandate requiring the protection and enhancement of Delta as Place.

During the approximately 13-year "temporary" construction period, the quaint and unique Delta as place, with its historical values, will be unrecognizable. The implementation of this Amendment would totally change and redefine much of the land use of the Primary Zone of the Delta.

While DSC staff have not specifically stated that the BDCP/California Water Fix (Alternative 4/4A) and Alternative 9 are the preferred Alternatives for Dual Conveyance by the DSC, all indications are that the Draft Amendment will dovetail with these two Alternatives of the BDCP/California WaterFix, thereby streamlining the implementation of the Delta Tunnels. Additionally, acceptance of this Amendment with the adoption of a Dual-Conveyance System, will confine the DSC to a Delta Plan which mandates adopting misguided designs for construction of the BDCP's Delta Tunnels, in addition to potentially diverting water from the Sacramento – San Joaquin River Delta in excess of 15,000 – 24,000 cfs.

We have background documentation that, when the language in pieces of different Plans, Reports, and Correspondence regarding the BDCP and the California Water Fix is analyzed, these documents support a "Dual Conveyance with Modifications" consisting of "Through-Delta Conveyance" (Alternative 9) and "Isolated Conveyance-Pipeline/Tunnel" (Alternative 4/4A). If this Amendment is adopted, it would, in effect, limit the DSC to a combined BDCP/California Water Fix, which has been shown to be unsuitable in satisfactorily addressing the directives of the Co-Equal Goals, including the above Water Code Section 85304 Delta as Place legal order.

DWR is currently requesting permits from the State Water Resources Control Board (SWRCB) for three intakes, each 3,000 cfs for a total of 9,000 cfs, at Clarksburg, Hood, and Courtland, as described in Alternative 4/4A. Because there is sufficient evidence in the BDCP/California Water Fix documents that Dual Conveyance includes both Through-Delta Conveyance and Isolated Conveyance-Pipeline/Tunnel, and that Through-Delta Conveyance equates to Alternative 9 and Isolated Conveyance-Pipeline/Tunnel equates to Alternative 4/4A (see below), it would be difficult to deny that adoption of the proposed Amendment would not give endorsement to, and authorization of, the BDCP and California Water Fix options, i.e. Delta Tunnels.

The following sections provide citations from various documents that support these conclusions:

1. The Dual Conveyance Amendment equates to Alternative 4/4A and Alternative 9 of the BDCP/California Water Fix.
2. The BDCP EIR/EIS and RDEIR/SDEIS establishes a pathway for mixing and matching pieces/parts of different Alternatives.
3. This Delta Plan Amendment will largely obliterate the cultural and historic value and livable aspects of the Primary Zone of the Delta and make it essentially uninhabitable through the massive 13-year construction process that will be done in a manner that is antithetical to CA Water Code 85054's commitment to achieving the Co-Equal Goals in a manner "that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."
4. Confirmation that construction noise and vibration levels will cause damage to historic buildings.
5. The National Historic Preservation Act, Section 106.

1. The Dual Conveyance Amendment Equates to Alternative 4/4A and Alternative 9 of the BDCP/California Water Fix

In the 37-page handout titled "Draft Delta Plan Amendment for Water Conveyance, System Storage, and the Operation of Both," supplied by the DSC at the April 28, 2017 DSC Meeting, the DSC Staff recommends that the DSC Council Members adopt revised wording in the Delta Plan that "promotes a package of conveyance and storage options, with operational improvement," while also claiming "the draft amendment is not promoting WaterFix or any specific project." However, details of Alternative 9 and Alternative 4/4A in the BDCP/California WaterFix, are so aligned with the proposed "Dual Conveyance" Amendment language that this appears to be more than coincidental. This correlation is as follows:

Definition of Dual Conveyance

On Page 17, Lines 21-22 and 25-29 of the Revised Draft Delta Plan Amendment from April 19, 2017, Dual Conveyance is identified as New and Improved Water Conveyance.

Lines 21-22 state "Subject to completion of environmental review and approval by the lead agency, the following infrastructure options are hereby promoted."

Lines 25-29 state "Dual Conveyance should incorporate multiple intakes and facility improvements for both isolated, below-ground conveyance and through-Delta conveyance of the State Water Project (SWP) and Central Valley Project (CVP) water supplies from the Sacramento River to the South Delta."

On Page 21 of the 37-page handout titled “Draft Delta Plan Amendment for Water Conveyance, System Storage, and the Operation of Both,” supplied by the DSC at the April 28, 2017 DSC Meeting, **Dual Conveyance is defined as follows:**

- “Dual Conveyance: Combine **through-Delta conveyance** and **isolated conveyance** to allow operational flexibility.” (Emphasis added.)

Page 21 continues to identify Through-Delta Conveyance and Isolated Conveyance-Pipeline/Tunnels as follows:

- “**Through-Delta Conveyance:** Continue to divert water in the southern Delta at existing or modified intakes/diversions for SWP and CVP.” (Emphasis added.)
- “**Isolated Conveyance:** Divert water from the Sacramento River at new intakes/diversions to the existing SWP and CVP pumping plants **through a pipeline/tunnel.**” (Emphasis added.)

Alternative 9 Identified as Through-Delta Conveyance

The “Overview of Alternatives” Chart on page 8 of the Bay Delta Conservation Plan EIR/EIS Highlights Book from December 2013 defines Alternative 9 as:

- “Alignment Option: Through-Delta Separate Corridors
- Conveyance Type: Through-Delta
- Intake Locations: Delta Cross Channel and Georgiana Slough channel modifications
- North Delta Diversion Capacity: 15,000 cfs”

Alternative 4 Identified as Pipeline/Tunnel and/or Dual Conveyance

The “Overview of Alternatives” Chart on page 8 of the Bay Delta Conservation Plan EIR/EIS Highlights Book from December 2013 defines Alternative 4 as:

- “Alignment Option: Modified Pipeline/Tunnel
- Conveyance Type: Dual
- Intake Locations: 2, 3, & 5
- North Delta Diversion Capacity: 9,000 cfs”

2. The BDCP EIR/EIS establishes a pathway for mixing and matching pieces of different Alternatives.

As is demonstrated below, the BDCP/California Water Fix retains the right to use parts or pieces of different Alternatives in defining the final Project.

RDEIR/SDEIS Page 1-6, L 30-38, 1.1.3, *Identification of a Preferred Alternative* states:

“As was true at the time the Draft EIR/EIS was issued, the existence of a preferred alternative—or a proposed project—does not mean that the remaining alternatives from that document are no longer under active consideration. The choice of a preferred alternative is purely provisional and subject to change. . . . New information gained through additional public or agency input—such as will occur in response to this RDEIR/SDEIS—could ultimately lead to the approval and implementation of an entirely different alternative.” (Emphasis added.)

RDEIR/SDEIS Page 3-1, Lines 17-24, 3.1.1, *Preferred Alternative Under CEQA*, states:

“Notably, identification of Alternative 4 as the preferred CEQA alternative is tentative only, and is subject to change as DWR and the CEQA responsible agencies, as well as the NEPA Lead Agencies, receive and consider public and agency input on this EIR/EIS. It is therefore possible that the final version of the BDCP may differ from Alternative 4 as described herein, either because Alternative 4 itself was refined, because another alternative was determined to be preferable, or because the Lead Agencies, in response to input, developed a new alternative with some features from some existing alternatives and other features from other existing alternatives.” (Emphasis added.)

3. This Dual Conveyance will largely destroy the Primary Zone of the Delta through long-term construction activity and is antithetical to the CA Water Code 85054’s commitment to achieve the Co-Equal Goals, “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” (Emphasis added.)

Construction of Alternative 9 will physically destroy significant portions of the towns of Walnut Grove and Locke through an excessive 13-year construction cycle. What isn’t physically destroyed will be made uninhabitable due to the incessant disruption of normal life through the massive and lengthy process of construction of the BDCP/California Water Fix. This will include loss of “Delta as Place” as it will be so unpleasant for anyone to live in Locke and/or Walnut Grove that these will become essentially ghost towns. The location and height (up to 30 feet above

ground) of the pumping stations will obstruct any visual appeal and be constant reminders that this is, in fact a massive industrial water facility.

RDEIR/SDEIS Page 3-9, L 15-18 and 3-10, L 1-6:

Under Alternative 9, two 2,800 foot long intakes, each with a capacity of 7,500 cfs, would be placed at the entrance to the Delta Cross Channel and Georgiana location, there would potentially be a new replacement intake control structure with gates. At the Georgiana Slough location, a new gated intake control structure with a flood flow capacity of 20,600 cfs would be constructed. Construction of Alternative 9 intakes would also require the installation of temporary cofferdams to create a dry work area within the subject waterway. All intakes would be equipped with self-cleaning, positive barrier fish screens designed to be protective of salmonids and delta smelt.” (Emphasis added.)

Note: The new Water Intake Facility at Freeport is approximately 300 cfs. In a generalized comparison, one intake facility at 7,500 cfs, as identified in Alternative 9, would be 25 times larger than the one at Freeport. Two intake facilities equal to 15,000 cfs would be 50 times larger than the one at Freeport. These two new intake facilities would be located between the north end of Locke and the south end of Walnut Grove (approximately back-to-back structures). As noted in the RDEIR/SDEIS; with an additional concrete batch plant between The Meadows and Locke, and an intermediate forebay on Granville Tract, behind Locke to the east.

RDEIR/SDEIS Page 3-9, L 9-14:

“New intake facilities would necessitate the widening of existing levees on the landside to increase crest width, to facilitate intake construction and accommodate the realignment of State Route 160. Minor dredging and channel modification activities would also take place along the face of the intakes. New intake facilities would include gantry cranes, log boom and log boom piles, riprap, and electrical buildings.” (Emphasis added.)

RDEIR/SDEIS Page 3-28, L 20-24:

“Construction of the Georgiana Slough intake for Alternative 9 would require the relocation of a levee and associated road to create space for a boat channel and lock to allow continued boat access between the Sacramento River and Georgiana Slough. Both diversion pumping plants, along with their associated facilities, would be constructed on engineered fill, with a final ground level of approximately 25 feet for the Old River plant and 15 feet for the Middle River plant.”

RDEIR/SDEIS Page 3-15, L 16-18:

“Through Delta/Separate Corridors (Alternative 9):

An approximately 2-acre concrete plant and 2-acre fuel station on the east bank of the Sacramento River between The Meadows Slough and the community of Locke.”
(Emphasis added.)

RDEIR/SDEIS Page 3-26, L 10-26:

“Through Delta/separate corridors conveyance – levee construction and modification:

Screened intakes (without pumping plants)

Diversion pumping plants

Operable barriers (some with boat locks)

Fixed barriers

New access roads

New utility corridors

New levee sections

Temporary access and work areas for intake, canal, and pipeline/tunnel construction:

Temporary barge unloading facilities

Road haul routes and temporary access roads

Concrete batch plants and fuel stations

General construction work areas, including field offices, warehouse, and maintenance shops.

Habitat restoration, protection, creation, and enhancement; stressor reduction conservation measures; and avoidance and minimization measures (CM2-CM21) could also include physical/structural components related to new roads for site access, levee work, and similar elements. These conservation measures are analyzed at the program level in this EIR/EIS.” (Emphasis added.)

RDEIR/SDEIS Page 3-30, L 20-28:

“The two intake structures for Alternative 9 would not divert water toward a pumping plant but into existing channels. These structures would be 2,800 feet wide and 15 feet high. Each intake would divert up to 7,500 cfs. Radial gates downstream of the intakes would limit flow to this maximum while slide gates on each bay would equalize approach velocity across the face of the fish screen. The intake at Georgiana Slough would entail construction of a boat lock to allow continued passage between the slough and the Sacramento River. Two smaller intake structures would not include fish screens; these would divert up to 250 cfs into the diversion pumping plants, redirecting flows of existing channels, and would include automatic self-cleaning trash racks, along with sluice gates between the intake and the pumps.”

Two smaller intakes of 250 cfs each would be equivalent to approximately two Freeport intake facilities; and these would be in addition to the two 7,500 cfs water intakes at this location, increasing the size to 52 times larger than the Freeport water intake facility.

RDEIR/SDEIS Socioeconomics 16.1.1.1., Pg 16-2, L 16-32:

“Numerous communities with populations from thousands (e.g., Pittsburg) to a few hundred (e.g., Locke) are located in Contra Cost, Sacramento, San Joaquin, Solano, and Yolo Counties. Surrounding these communities are farms, ranches, orchards and vineyards, most of which have residences associated with them that are not in a delineated community, but are socially tied to a community through general proximity or public service (e.g., school district boundaries and public service delivery areas). The Delta Reform Act of 2009 designated a number of unincorporated Legacy Communities in the Delta, including Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista, Ryde, Locke and Walnut Grove. These communities exemplify the Delta’s unique cultural history and contribute to the sense of the Delta as a place. In addition to recognized cities and communities, the Delta also includes numerous small, recreational areas (including campgrounds, marinas, recreational vehicle parks, and vacation homes) that are popular throughout the spring and summer months.”

RDEIR/SDEIS Socioeconomics Page 16-29, L 31-45; Page 16-30, L 1-4:

“Legacy communities in the Delta, which are those identified as containing distinct historical and cultural character, include Locke, Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista, Ryde, and Walnut Grove. These communities provide support services and limited workforce housing for the area’s agricultural industry. . . Construction activities associated with BDCP water conveyance facilities would be anticipated to result in changes to the rural qualities of these communities during the construction period (characterized by predominately agricultural land uses, relatively low population densities, and low levels of associated noise and vehicular traffic), particularly for those communities in proximity to water conveyance structures, including Clarksburg, Hood, and Walnut Grove. Effects associated with construction activities could also result in changes to community cohesion if they were to restrict mobility, reduce opportunities for maintaining face-to-face relationships, or disrupt the functions of community organizations or community gathering places (such as schools, libraries, places of worship and recreational facilities). Under Alternative 4, several gathering places that lie in the vicinity of construction areas could be indirectly affected by noise and traffic associated with construction, including Delta High School, the Clarksburg Library, Clarksburg Community Church, Resurrection Life Community Church, Citizen Land Alliance, Discovery Bay Chamber of Commerce, Courtland Fire Department, and several marinas or other recreational facilities (see Chapter 15, Recreation, Table 15-15).

Page 16-30, L 28-30:

CEQA Conclusion: Construction of water conveyance facilities under Alternative 4 could affect community character in the Delta Region. However, because these impacts are social in nature, rather than physical, they are not considered impacts under CEQA.” (Emphasis added.)

RDEIR/SDEIS Socioeconomics Page 16-31, L 42-46:

Under Alternative 4 (and now, Alternative 9 has been added), “property values may decline in areas that become less desirable in which to live, work, shop, or participate in recreational activities. **For instance, negative visual- or noise-related effects on residential property could lead to localized abandonment of buildings.** While water conveyance construction could result in beneficial effects relating to the economic welfare of a community, adverse social effects could also arise as a result of declining economic stability...” (Emphasis added.)

RDEIR/SDEIS Socioeconomics, Page 16-264, L 5-16:

“Impact ECON-5: Effects on Recreational Economics as a Result of Constructing the Proposed Water Conveyance Facilities

NEPA Effects: **Under Alternative 9, three recreational facilities would be permanently displaced and three others would be temporarily but directly or indirectly disturbed during construction**, as described in Chapter 15, Recreation, Section 15.3.3.16, Impacts REC-1 through REC-4. **Construction of Alternative 9 facilities would result in displacement and permanent loss of recreation facilities including the Walnut Grove public guest dock, Boathouse Marina and the Boon Dox guest dock in Walnut Grove. Additionally, the quality of recreational activities including boating, fishing waterfowl hunting, and hiking in the Delta could be indirectly affected by noise, lighting, traffic, and visual degradation in proximity to water conveyance construction. Recreation areas anticipated to experience temporary or indirect effects include Delta Meadows State Park, Brannan Island State Recreation Area, Sherman Island, Delta Meadows River Park, Stone Lakes National Wildlife Refuge, Cosumnes River Preserve, Dagmar’s Landing, Deckhands Marine Supply, Landing 63, Walnut Grove Marine, Bullfrog Landing and Marina, Union Point Marina Bar & Grill, and Clifton Court Forebay.”** (Emphasis added.)

4. Confirmation that Construction Noise and Vibration Levels will Cause Damage to Historic Buildings

North Delta C.A.R.E.S.’ concern is that the nine legacy towns, as defined by the Delta Reform Act of 2009 include the communities of Clarksburg, Hood, Courtland, Locke and Walnut Grove, specifically where Alternatives 4/4A and 9 are proposed to be constructed. Many of these communities have sensitive buildings such as schools, churches, libraries; and many of the buildings are historic being 100+ years old. The estimated “temporary” construction period of 13 years adverse impacts, of which the EIR/EIS claims there are 750 adverse impacts, and we will focus on the noise and ground vibrations/impacts. The impact of the noise levels of the heavy trucks, vibratory pile driving, earth moving equipment and other construction related activities, has the potential to shake 100 year old buildings in these communities potentially causing major damage, as their threshold

level may be as low as 90 VdB. Many of the buildings are on the National Historic Register and are fragile; waiting for a future restoration project.

It is important to note that there is no protection for these communities from construction noise and vibrations under CEQA as they are not considered as impacts under CEQA, and are exempt from local noise regulations.

The BDCP further states that implementation of Alternative 4/4A will impact a total of 85 structures by constructing the three new intake facilities at Clarksburg, Hood, and Courtland. Alternative 9 at Locke and Walnut Grove will impact a total of 255 structures.

The following documentation confirms these statements.

RDEIR/SDEIS Page 23-1, L 31-35:

“The vibration amplitude is expressed in terms of vibration decibels (VdB), which use a reference level of 1 micro-inch per second. The threshold of perception for most people is around 65 VdB. Vibration levels in the 70-80 VdB range are often noticeable but acceptable. Typically, vibration levels must exceed 100 VdB before building damage occurs. Historic structures, however, may have a damage threshold as low as 90 VdB.”

RDEIR/SDEIS Page 13-12:

Table 13 -12 “Estimated Water Conveyance Conflicts with Existing Structures”

RDEIR/SDEIS Page 16-32, L 12-14:

“Construction of water conveyance facilities under Alternative 4 could affect community character in the Delta Region. However, because these impacts are social in nature, rather than physical, they are not considered impacts under CEQA.”

6. The National Historic Preservation Act

Neither the BDCP nor the RDEIR/SDEIS have adequately and/or appropriately demonstrated compliance with the National Historic Preservation Act. The Advisory Council on Historic Preservation, who administers the National Historic Preservation Act, states on their website under “Information About Section 106 Review and Consultation” that “The Federal agency implementing the project or providing assistance, licenses, permits, or approvals for a proposed project is responsible for consulting with stakeholders and completing Section 106 prior to making a final decision. Agencies initiate Section 106 reviews in consultation with state and tribal officials. ...”

Per the Office of Federal Agency Programs’ Advisory Council on Historic Preservation, the following are requirements for compliance with Section 106 of the National Historic Preservation Act.

“Consultation is the cornerstone of the Section 106 process and should be initiated in the early stages of project planning.” (Emphasis added.) “Federal agencies are required to also include local governments and applicants for federal assistance permits, licenses and other approvals in the Section 106 review process. Other consulting parties, such as individuals or groups interested in historic preservation should be invited to consult, too. In order to successfully complete a Section 106 review, federal agencies must follow these four steps:

- INITIATE Section 106 and determine if it applies to a given project;
- IDENTIFY historic properties in the project areas;
- ASSESS the effect of the project on identified historic properties; and
- RESOLVE adverse effects by exploring alternative to avoid minimize, or mitigate the effects.”

“The process provides for the consideration of alternatives that promote preservation and offers the public and stakeholders the opportunity to influence federal decision making.” (Emphasis added.)

Summary:

Chapter 5 in the Delta Plan cites the Delta Stewardship Council’s five core strategies for protecting and enhancing the Sacramento-San Joaquin Delta, which includes “Encourage recreation and tourism that allow visitors to enjoy and appreciate the Delta, and that contribute to its economy” and to “Sustain a vital Delta economy that includes a mix of agriculture, tourism, recreation, commercial and other industries, and vital components of state and regional infrastructure.”

The Delta Plan states on page 167 that “The Delta provides opportunities for recreation and tourism because of its unique geography, mix of activities, and rich natural resources.” The Delta Plan suggests that the Delta’s traditions can be honored and its history preserved by including policies that “enhance recreation and tourism,” page 167. The Delta Plan also suggests that among the values that make the Delta a distinctive and special place are the fact that “The Delta retains a rural heritage, characterized by farms and small towns linked by navigable waterways and winding country roads,” page 167. It also states that “The Delta Plan recognizes that “The Council envisions a future where the Delta’s unique qualities are recognized and honored,” page 168. And that “Visitors to the region will enjoy recreation on and in its waterways, marshes, resorts, parks, and historic legacy communities.”

We appreciate this opportunity to comment on our observations and concerns. We stand together with you in a deep commitment to support, uphold, and treasure the Delta as a unique and special place in California; its history, its culture, its ecosystem, and what it represents to all Californians and the world.

Therefore, we request that the Delta Stewardship Council members decline to accept this Amendment, and any future Amendments, which point to incorporating construction of intake facilities and water conveyance structures into the Delta Plan.

Respectfully yours,

/sg/ Barbara Daly

Barbara Daly
Co-Chair of North Delta C.A.R.E.S.

Cc: Michael George, Delta Water Master
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